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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 26 APRIL, 2019

AT 2.15PM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

MR BUCHANAN: Commissioner, can I make some applications, please, to vary non-publication orders made in respect of evidence given by Mr Hawatt on 5 December, 2016? I've got a series of passages that are recorded in the transcript of the evidence on that day. The first of them is page 790, commencing at line 10 and concluding on line 27.

10 THE COMMISSIONER: Sorry?

MR BUCHANAN: So page 790, commencing on line 10 and concluding on line 27. I have a very similar one which is shortly after that but perhaps would you, Commissioner, prefer it to be done passage by passage, because I can proceed that way if that would be convenient.

20 THE COMMISSIONER: Look, we might do it passage by passage. Let me just read this. All right. The non-publication order made on 5 December, 2016 will be varied in respect of the evidence of this witness to exclude the evidence recorded at the transcript page 790, lines 10 to 27.

**VARIATION OF SUPPRESSION ORDER: THE NON-PUBLICATION ORDER MADE ON 5 DECEMBER, 2016 WILL BE VARIED IN RESPECT OF THE EVIDENCE OF THIS WITNESS TO EXCLUDE THE EVIDENCE RECORDED AT THE TRANSCRIPT PAGE 790, LINES 10 TO 27.**

30 MR BUCHANAN: Mr Hawatt, I'm going to read to you from the transcript of evidence you gave to the Commission on 5 December, 2016. If you could listen to me read this extract, please, and then I'll ask you some questions about it. Question, "Yeah. How many times do you think you went to Mr Demian's office?" Answer, "A few times, yeah." Question, "And was it only about his developments he had before council?" Answer, "Yeah." Question, "So the only reason you, was that the only reason you ever met with Mr Demian?" Answer, "No, no, no, sorry, I met him because also what's his name, oh, Daryl Maguire is an MP. He, he made contact with me and there's another guy called, what's his name, Laki, and a guy  
40 called John, they've been hounding me regarding get in contact with Charlie to, to see if they're interested in his site." Question, "When?" Answer, "And again I've only started doing that after we got sacked from council so - - -" Question, "Okay." Answer, "- - - there was no conflict. So I haven't sort of done anything that would have supported him based on that, so whenever it went public, then I started, I contact him regarding those sites." You heard me read that evidence to you, Mr Hawatt. When you told the Commissioner on 5 December, 2016 that in relation to the contacts from

Daryl Maguire, a guy called Laki and a guy called John, “only after we got sacked from council so there’s no conflict,” that was not true, was it?  
---No, that’s, I mean that’s a statement I made from memory, that’s, I mean I met them before that, yeah.

You knew at the time you made those statements that they were not true, didn’t you?---No. I believed it, whatever I said I would have believed it at the time.

10 You knew, didn’t you, that you had started making contact with Mr Demian on behalf of Laki and John in 2015 in fact, didn’t you?---I, I, look, I don’t recall. If I made a statement that, that’s what I believed at the time.

Commissioner, can I apply, please to vary the non-publication order made in respect of evidence given by the witness on 5 December, 2016 in respect of evidence recorded in the transcript commencing on page 793, line 21 and concluding on page 794, line 18.

20 THE COMMISSIONER: The non-publication order made on 5 December, 2016 is varied to include the evidence of this witness recorded in the transcript at page 793 commencing at line 21 and concluding at page 794, line 18.

MR BUCHANAN: Commissioner, can I just check, was the ruling that that material was excluded from the non-publication order?

30 THE COMMISSIONER: I hope I said that. I’ll say – sorry, if I wasn’t, if I didn’t say that. The evidence recorded at transcript 793, line 21, and concluding at transcript 794, line 18, is excluded from the non-publication order.

**VARIATION OF SUPPRESSION ORDER: THE NON-PUBLICATION ORDER MADE ON 5 DECEMBER, 2016 IS VARIED TO EXCLUDE THE EVIDENCE OF THIS WITNESS RECORDED IN THE TRANSCRIPT AT PAGE 793 COMMENCING AT LINE 21 AND CONCLUDING AT PAGE 794, LINE 18.**

40 MR BUCHANAN: Now, Mr Hawatt, I will read to you from the transcript of evidence you gave to the Commissioner on 5 December, 2016. If you could listen to what I read to you and I will ask you some questions about it afterwards. Question, “Did you pass on any offers for the sale of Mr Demian’s development to Mr Demian?” Answer, “No, no. John sends us text messages and this and that. Look, I treat them with a grain of salt. These people are, they’re a dime a dozen. They pop up and disappear throughout 20 years, so you get to know who to take serious and who not to take serious. So these people, it’s like finance, they come and go. They

promise you the earth, and they talk about this and that, and you just take them, you brush them aside, and that's exactly what I've done." Question, "Did you pass on any offers made to you by Mr Laki or John?" Answer, "Whatever." Question, "To Mr Demian?" Answer, "I passed, whatever he sent me, I forwarded it on." Question, "Why did you do that?" Answer, "Because it wasn't for me. It's for him." Question, "And was there ever any discussion about you receiving a fee for that work?" Answer, "He mentioned it." Question, "Who did?" Answer, "John." Question, "John mentioned it?" Answer, "I think John, or Laki. I don't know, but - - -"

10 Question, "What did John say to you?" "Oh, get commissions for this. But again, this is after we were sacked as councillors. So as far as I'm concerned, any contacts that were made with Charlie Demian was after the sacking. And as far as I was concerned, I was free, and it was public, public knowledge. What they, what they wanted was already on the public market." Question, "All right, so - - -" Answer, "So there's nothing there." Question, "Sure. Is it your evidence that you only made contact with Charlie Demian in relation to the sale of his property after council amalgamations?" Answer, "Yes, yes, yes." Question, "You never

20 forwarded any offers to Mr Demian while you were still a councillor?" Answer, "No. No, I don't do that." Question, "All right. And when did you first have a conversation with John about the possibility of a fee for this work?" Answer, "He sent me, he sends me messages. I don't know. I met him over coffee a couple of times, and look, honest, I just don't have much respect for him and the guy he's working with, I just, I listen, but I don't take them serious." Question, "My question was, when did you first have a conversation with John about the possibility of a fee?" Answer, "Just around that time, when we got sacked, just after." You heard me read that evidence to you, Mr Hawatt?---Yep.

30 When in that passage you told the Commission that the conversations with John about getting a commission for this had been after you were sacked as councillors, that was not true, was it?---Well, from memory, it is around that time. I mean, the, the commission, as in the amount raised, were after the council. I mean, I, I, I don't recall any other, hearing anywhere else.

When you told the Commission, "So far as I'm concerned, any contacts that were made with Charlie Demian was after the sacking," that wasn't true either, was it?---No, I'm talking about the, the transaction in regards to payments and all that, with Daryl Maguire and all that. It's all after, after

40 that. I mean, the, the amounts and the values and the commissions and all that was way, was after these, the sackings of, of, of council.

And - - -?---I mean, I've, I've passed on information during the period, and I, I'm not denying that.

And when you were asked the question, "Is it your evidence that you only made contact with Charlie Demian in relation to the sale of his property after council amalgamations?" Your answer, "Yes, yes, yes," was untrue,

wasn't it?---I just, well, from my memory, what, what I'm saying is, I was passing on information back and forward between the parties and then after the sacking, the meetings, I organised meetings with, with Daryl and his group, the Chinese group and regarding John, I, I, I couldn't remember what, with John and, and Laki but again, I was just coordinating meetings, but in regards to talking business, it was after the, the councillors were sacked. I still say that. That's, that's what, that's what I, I've read as well.

10 That evidence wasn't true to your knowledge, was it?---What, what's not true?

You saying, "Yes, yes, yes," in answer to the question, "Is it your evidence that you only made contact with Charlie Demian in relation to the sale of his property after council amalgamations?"---Oh, it's just, it depends on what, what the wording is, but from, from my, my understanding is in between was passing on information to the two parties, and after the sacking I got a bit more involved in, in the actual meetings with, with Daryl and, and his group, but in regards to John, yes, I was involved in, in, in meetings with him but I wasn't participating in, in a business transaction except passing  
20 the information on.

THE COMMISSIONER: That's making contact with Mr Demian, isn't it?  
---Yeah, contact but I'm, I don't know, I'm interpreting it in a different way to what I'm, what I said. I mean, I just, you know, I, I don't, I don't understand where, I mean, what I'm saying is, is passing on information which, which I did say that and meetings with John was purely to pass on information between and after the sacking as, as you can see from the messages and it was more to do with business and, and I think I, I, well, I, I think the guys probably thought there was an obligation after we got sacked  
30 from council to, to look after us, but that's, it's something that they made up.

MR BUCHANAN: And when you were asked the question, "You never forwarded any offers to Mr Demian while you were still a councillor?" and you gave the answer, "No, no, I don't do that," that answer was untrue, wasn't it?---Well, from memory, I, I, from what I have said, it would have been, that's, that's what I remember at the time.

40 And it was untrue when you gave that evidence, to your knowledge, wasn't it?---No. I never gave it, it's only what I remembered and, and I gave an honest, an honest response and that's what I remember.

Commissioner, I apply to vary the non-publication order made in respect of the evidence given by Mr Hawatt on 5 December, 2016, in respect of the evidence recorded in the transcript at page 799, commencing at line 20 and concluding at line 29.

THE COMMISSIONER: All right. The non-publication order made on 5 December, 2016, is varied to exclude the evidence of the witness recorded at transcript page 799, line 20 and finishing on that page at line 29.

10 **VARIATION OF SUPPRESSION ORDER: THE NON-PUBLICATION ORDER MADE ON 5 DECEMBER, 2016, IS VARIED TO EXCLUDE THE EVIDENCE OF THE WITNESS RECORDED AT TRANSCRIPT PAGE 799, LINE 20 AND FINISHING ON THAT PAGE AT LINE 29.**

MR BUCHANAN: Mr Hawatt, I'm going to read to you from the transcript of evidence that you gave on 5 December, 2016. If you could listen to what I read to you, please, and then I will ask you some questions afterwards. Question, "We were talking about the possible sale of his site. Was that the Harrison's site at 548 - - -" Answer, "Yeah." Question, "- - - to 568 Canterbury Road?" Answer, "Yeah." Question, "And when was the first time you ever became involved in a discussion about the potential sale of that site?" Answer, "Oh, that was only at the end after we got sacked." Question, "Definitely after you got sacked?" Answer, "Yes." Sorry, I'll start again. Question, "Definitely after you got sacked?" Answer, "Yes, yes." Did you hear me read that evidence to you?---Yeah, yeah.

That evidence was untrue, wasn't it?---Well, at the time it was an honest response from myself, from memory.

And when you gave that evidence it was untrue to your knowledge, wasn't it?---No, it's not untrue to my knowledge, it was an honest response.

30 Commissioner, I apply to vary the non-publication order made in respect of the evidence given by the witness on 5 December, 2016 in respect of evidence recorded in the transcript at page 800, line 9 through to line 11.

THE COMMISSIONER: The non-publication order made on 5 December, 2016 in respect of the evidence of this witness will be varied to exclude the evidence recorded at transcript page 800, line 9 and finishing at line 11.

40 **VARIATION OF SUPPRESSION ORDER: THE NON-PUBLICATION ORDER MADE ON 5 DECEMBER, 2016 IN RESPECT OF THE EVIDENCE OF THIS WITNESS WILL BE VARIED TO EXCLUDE THE EVIDENCE RECORDED AT TRANSCRIPT PAGE 800, LINE 9 AND FINISHING AT LINE 11.**

MR BUCHANAN: Mr Hawatt, I will read to you from the transcript of evidence that you gave on 5 December, 2016 to the Commission and if you

could listen to what I read to you and I will ask you some questions about it afterwards. Question, "Did you ever have any discussions with George Vasil about the potential sale of the Harrison's site?" Answer, "George, I think he has nothing to do with them, he doesn't like them either from my understanding." Did you hear me read that evidence to you?---Yeah.

That evidence was untrue to your knowledge, wasn't it?---Well, it's, it's what, it's from memory what I said, I was discussing what George likes, he doesn't like them, but didn't say he didn't deal with them.

10

The answer you gave was to the question, "Did you have any discussions with George Vasil about the potential sale of the Harrison's site?" You knew that the true answer was yes, didn't you?---That's, from memory that's what, that's what I spoke about based on, based by George - - -

No, it's not what you said. What you said was, "George, I think he has nothing to do with them. He doesn't like them either from my understanding." You knew that that was untrue, didn't you?---He didn't like them.

20

You knew it was untrue to say that George, you thought he had nothing to do with them.---Look, at the time I believed that's what, that was correct.

On what basis?---Well, I'm talking about, I didn't say he didn't have anything to do with them, I'm saying that he doesn't like them.

THE COMMISSIONER: No, you're not.---Yes, I am.

30 Your first answer, "George," you were asked that specific question, the first part of your answer is, "George, I think he has nothing to do with them." That is suggesting that the answer to did you ever have any discussions with George Vasil about the potential sale of the Harrison's site is no, I didn't. ---I'm talking about George doesn't want to have anything to do with them but he was, I don't know how I would have worded that from, from the question I was asked, I'm talking about George doesn't like them, doesn't want to have anything to do with them.

40 No, you said, "I think he has nothing to do with them."---That's, that's my answer. That's, that's from my honest memory, that's what I said and that's an honest response that I gave at the time.

MR BUCHANAN: Commissioner, can I make another application, please, in respect of evidence given by the witness on 5 December, 2016, recorded at page 795 of the transcript, commencing at line 39, page 795, line 39 and concluding at line 42.

THE COMMISSIONER: The non-publication order made on 5 December, 2016 is varied to exclude the evidence of the witness as recorded in the transcript at page 795, line 39 and concluding at line 42.

**VARIATION OF SUPPRESSION ORDER: THE NON-PUBLICATION ORDER MADE ON 5 DECEMBER, 2016 IS VARIED TO EXCLUDE THE EVIDENCE OF THE WITNESS AS RECORDED IN THE TRANSCRIPT AT PAGE 795, LINE 39 AND CONCLUDING AT LINE 42.**

MR BUCHANAN: Mr Hawatt, I'll read to you from the transcript of evidence that you gave on 5 December, 2016 to the Commission. If you could listen to what I read to you, please, and then I'll ask you some questions about it. Question, "So with Mr Maguire, did you ever talk about commissions for the possible sale of Charlie's site?" Answer, "No." Question, "The Harrison's site?" Answer, "Because we didn't know what was going to happen." Did you hear me read that extract of evidence to you?---Yeah.

When you gave that evidence, you knew it wasn't true, didn't you?---No. I gave, whatever I gave was an honest opinion at the time, from memory.

You know that it certainly was not true.---Well, from what I've been reading, which is a bit different to somebody asking a question, but when you read something else then you realise, yeah, that's incorrect.

But what you've been reading, of course, has been transcripts of what you talked to Mr Maguire about.---Yeah, correct.

That is to say of things that you were involved in in the past.---I completely forgot what discussions, what messages I had with, with any of them. Whatever I said at that hearing, that was my honest and true opinion at the time.

Excuse me a moment. I'm about to move on to another topic, but before I do, Commissioner, could I take you please to your copy of Exhibit 91. It's just a convenient time, if I may, to ask whether we could all make a correction to our copy of this exhibit, Exhibit 91. This is the transcript of a telephone conversation between Mr Hawatt and Mr Vasil on 1 March, 2016 and what is recorded there as the session number that I've been referring to as the LII, the lawfully intercepted information number, is 04067. Do you see that, Commissioner?

THE COMMISSIONER: Yes.

MR BUCHANAN: There's been an accidental transposition of numerals there. It should read 04607.

THE COMMISSIONER: 04607, all right. We'll amend Exhibit 91 in that fashion.

MR BUCHANAN: Thank you, Commissioner. Mr Hawatt, I appreciate that you have told us that at the time you were thinking of Mr Demian's developments on Canterbury Road at the Harrison's site, and taking into account the site next door – 570-580 Canterbury Road – as one lot, but in fact they were separate DAs. In other words, there was a DA for six storeys ultimately that was approved on the Harrison's site and then there was a DA for two additional storeys on the Harrison's site. The Harrison's site being 548-568 Canterbury Road and then the site to the west of that, 570-580, that was actually legally a separate site. It was owned by Mr Demian and he made separate development applications for development of that site, albeit in the same way as he had approached the development of the Harrison's Timber site, 548-568 Canterbury Road. And so what I want to take you to now, if I can, please, is how the development applications that were lodged on Mr Demian's behalf for 570-580 Canterbury Road, were dealt with by council. And if it assists you at all, sometimes people have referred to that site as being the carpet shop site, part of the site involved, a carpet shop. That's the only reason why, I suspect.---Yep.

Now, if I tell you that the evidence shows that Statewide Planning, the planning company that did work for Mr Demian, lodged a DA for a six-storey development on 570-580 Canterbury Road on 16 December, 2014. ---Yep.

30 So we're not, we're leaving to one side the DA for two additional storeys – we'll come to that. So in respect of that DA, the one for the six-storey mixed-use development on 570 Canterbury Road, I can tell you that that DA was referred to the IHAP for assessment, and I can tell you that in his officer's report to the IHAP and to the City Development Committee, Mr Stavis recommended deferred commencement approval for that DA. ---Ah hmm.

Now, do you have a recollection of having any contact with Mr Stavis about that DA?---I don't remember.

40 Do you remember an issue arising as to what the IHAP thought ought to be done with the DA?---I don't remember.

Is it likely, given it was a DA for Mr Demian, that you did have contact with Mr Demian in relation to that DA and its progress through council?---I might have, but I just can't remember. I might have. I, I mean, to me I always remembered it as one site. I don't remember the break-up of it, honest. I just remembered it as one, one big site.

But you accept that chronologically, and as a matter of land titles, because they were separate land titles, or related to the fact that they were separate land titles, Mr Demian put in separate DAs - - -?---I - - -

- - - for the two properties at different times to each other?---Yeah, look, I, I don't remember this. I just look at it as one Harrison, with one land, and, and the issues were all linked together. So that's, that's from memory.

10 But you do accept, don't you, that - - -?---If he did it that way - - -

- - - if there were separate DAs, then - - -?---If he did it that way, I don't remember, but if he did it that way (not transcribable)

But you were then involved.---Yeah, but I don't recall having these separate DAs.

20 Yes, I understand that's what you say, but I just want to establish – you do accept that you were then involved, of course, in council's consideration of those separate DAs.---If he had issues, and he called me, yes. I, I, I don't recall.

And you would have been involved in the consideration of the DAs at the City Development Committee meeting that considered the DAs.---If I was there, and I'm, I, I moved motions, yes. Oh, but I don't remember those DAs.

30 Now, if I can show you, please, in Exhibit 69, volume 21, pages 5-8, you can see this is part of the business papers of the City Development Committee meeting for 13 August, 2015, and that it contains that IHAP report, this particular page that I'm showing you.---Yep.

And you can see that the IHAP recommendation towards the top of the page is that the development application – I'm sorry, first of all, you can see that it's in respect of 570-580 Canterbury Road?---Yeah, I, I don't know the numbers, just I know by sites, yeah. I mean, if you gave me the number, I wouldn't have a clue where it's at. If you mentioned Harrison's, yes, I would.

40 And secondly, you can see that the IHAP recommendation is reproduced, and it reads, "That," and then it gives the development application number, "be deferred to allow the applicant to provide additional information as required and for council to assess any additional information and provide an updated report to the panel."---Yep.

You see that?---Yep.

If I can take you to page 6, please. This is still the panel report, under the heading Panel Assessment in the middle of the page, second paragraph. It reads, "The panel is of the opinion that the site is appropriate for this type of development. However, there are a number of specific matters which the panel is not satisfied about at this stage, in terms of appropriate information and level of detail. The panel is of the opinion that the matter should be deferred to enable the following matters to be addressed." And can you see that there's then on that page under the heading Site Isolation, a series of paragraphs?---Yeah.

10

And it goes over to the next page, volume 21, page 7, down to close to the bottom of the page, indicating that there was a concern that a particular site, identified here as 2 Chelmsford Avenue or 2 Chelmsford Avenue with 4 Chelmsford Avenue, had the potential for redevelopment but if the DA was approved that would not be possible. Do you see that?---Ah hmm.

And then under the heading Design Changes Details, can you see that there's a series of letters, B, C, D, going over to page 8, E, F, G - - -? ---Yeah.

20

- - - in respect of which the IHAP said that further information or more detail was required. Now, you understood, didn't you, we look at this I think on Wednesday, that the council policy recorded in its policy register was that where the IHAP deferred a matter and required further information that the matter would not be considered by the CDC or by council and instead the matter would require that further information to be provided to the IHAP and once the IHAP had considered that further information then it could go to the CDC or to the council. Do you recall that?---I don't remember this thing, no.

30

No, no, no, no, no. On Wednesday we went through, didn't we, the council policy in relation to - - -?---Oh, yeah, yeah.

- - - where the IHAP deferred a matter - - -?---Ah hmm.

- - - and what the consequences were, what the rules were in other words, what the policy was of the council of which you're a member, and that is that the CDC wouldn't consider it, instead it would go over to the next IHAP meeting to allow for the information required to be provided. Do you recall that?---Yep. I, yeah, vaguely, yeah.

40

Right. Now, in this particular case, did you have any contact with Mr Demian about that outcome of the IHAP meeting?---I don't recall this, I don't even recall this item coming to council.

Well, do you think, given your relationship with Mr Demian, given that this was his DA, given that this would result in delay to approval of the development he proposed, that Mr Demian is likely to have been unhappy

about it?---If, if there was a problem with it and he called us, complained about it, he may have but I don't remember it.

But the likelihood is he did talk to you about it, isn't it?---He might have if he has issues.

Or on the other hand, you being aware that it was an application of Mr Demian's, you might have been immediately aware, as soon as you found out about the IHAP decision, that Mr Demian would not be happy.---I don't, I don't recall.

Did you do anything about it?---I don't recall.

Do you think in the circumstances you're likely to have tried to do something about it?---If he had issues and he would have called me, then there's an issue with it, there would be some correspondence, I have to look at the correspondence to see if I spoke to him or not. I just, I don't recall.

You would have from time to time spoken to Mr Demian face-to-face? ---From time-to-time, yes.

Did you speak to Mr Stavis about the outcome of this IHAP decision?---I might have, I might have but I don't recall.

The likelihood is that you did, isn't it?---There's no likelihood, I don't recall. I don't recall.

I'm sorry, Mr Hawatt - - -?---If there was a - - -

I'd ask you not to pretend naivety, if you don't mind.---I'm not pretending, I can't recall.

MR DREWETT: I object to that.

MR BUCHANAN: I press the question.

MR DREWETT: I object.

THE WITNESS: I don't recall it.

MR DREWETT: My client's evidence is that he can't recall. The assertion by Counsel Assisting not to, I think it was not to press naivety and pretend naivety, in my respectful submission is once again an improper question. His answer is he can't recall. It may not be an answer that my learned friend likes and it may well be an answer that he makes his submissions on and makes something out of that, but that is his answer. To insult him and to, you know, to put him under that sort of degree of pressure when his answer quite clearly is what it is, in my respectful submission, anything that

flows from that would have absolutely no probative value at all. His answer is that he can't recall. He said it not once, twice, I think three times at least. I'd ask that my friend move on to a different question.

THE COMMISSIONER: Mr Buchanan.

10 MR BUCHANAN: I press the question, Commissioner. The question is one to which we have not received an answer and the question is about, given the relationship that the witness knows he had and that we all know he had with Mr Demian, given the relationship he had with Mr Stavis, given we have some idea about what Mr Demian's reaction would likely to be if further delays were to occur in his application, given Mr Hawatt has told us many times that he received and acted upon complaints by developers, including Mr Demian, of delays in the progress of their applications. It is not answering the question, to start with, to say I don't recall because I'm asking, given all we know about your relationship with Mr Demian, it is, isn't it, very likely that you tried to do something about it.

20 MR DREWETT: With respect, that wasn't the question that was asked. That's an entirely, well, on the same topic but a different question. The question was, don't feign naivety or something of that nature.

THE COMMISSIONER: All right. Mr Buchanan has put the question on that basis now and has set out the various factors that he wants Mr Hawatt to have in his mind when he answers that question, so I'm going to allow that question.

MR DREWETT: Please the Commission.

30 MR BUCHANAN: It's likely, isn't it, given everything you know about your relationship with Mr Demian and Mr Stavis that you tried to do something about the outcome of the IHAP meeting that considered Mr Demian's DA for the six storeys on 570 Canterbury Road?---I don't recall. If there was an issue and he called me and I acted upon it, so be it. It's, show, show it to me so I can remember but from memory, I do not recall even that DA coming in to council.

40 Would you accept it's likely that you pressed Spiro Stavis to try to do something about the problem that the IHAP recommendation posed for Mr Demian?---Why would I?

Because it was a problem and Mr Stavis, you had put in the place of the office of director of city planning to provide solutions.---It's, I haven't put in to provide, it's just people. There was a vote on it, five-nil, oh, this is sorry, the IHAP. I, I, look, I don't recall. I, I don't, I just, I don't even know what the issue is.

Can we have a look at volume 20, page 244, please. So I appreciate that he heading on this email conversation is 548 Canterbury Road. I just want to draw your attention to the date of the emails. It's 4 August, 2015 and 3 August, 2015, was the date of the IHAP meeting. You understand?---Yep.

10 So can you see at the bottom, Mr Stavis emailed Mr Demian on 4 August at 11.22am, saying in the second paragraph, "I'm still working through the issues and trying to find solutions." He then goes on to talk about the issue being clause 4.6. "Anyway, please understand I'm doing my best, Charlie, to assist, and hopefully find a solution. I have dedicated team, I have a dedicated team on this, and I will call you on Friday to discuss and set up a suitable time to meet. I really do appreciate your patience." You see that?--  
-Yep.

In the top half of the page, that email was forwarded by Mr Stavis to you and to Pierre Azzi.---Yep.

20 Can you assist us as to why Mr Stavis forwarded that to you and Pierre Azzi?---I don't recall. Could be keeping us in the loop, because we made representation on his behalf. That's all I can -- I don't even remember this, this message.

Did you have a meeting with Mr Demian at this stage - - -?---I don't - - -

- - - at around this time?---I don't recall.

30 If I could take you to page 260, in volume 20. This is a text message extracted from your phone to Mr Demian on 7 August, 2015, at 9.37pm, and it reads, "10.00am at Pierre." Do you see that?---Yep.

Were you organising a meeting at Pierre's house with Mr Demian in that message?---No, he might have called me, says, "Let's meet up," and I might have spoken, because he drops in, socialises at Pierre's every now and again and maybe that was a time when he wants to drop in there. I, I just, I don't remember that message either.

But you're the one who's trying to organise it.---Yeah, he might have called me. I, I just can't remember this.

40 Do you have any recollection of doing anything to try to find a solution for Mr Demian's problem with the DA for 570 Canterbury Road?---Look, I, I don't remember this whole, this whole thing. Honest, I don't remember it. I might have spoken to him. He might have called me. He might have relayed his, his concerns. I don't know. I can't remember.

Can I take you, please, to volume 21, page 79? The bottom half of the page is an email from Mr Stavis to Jim Montague on 10 August, 2015, at 4.16pm. "Councillor Hawatt asked me earlier today to provide him with draft

conditions which changed the recommendation from a deferred commencement consent to a standard approval, with the only material change being to a deferred commencement condition 3 in my report being replaced by condition 6.2 in the attached, which allows for live work units as opposed to commercial suites should council decide to move away from a deferred commencement consent.” Just pausing there, does this refresh your recollection?---No, it doesn’t, actually.

10 Is there any reason to believe that Mr Stavis was wrong in saying that you had asked him earlier, on 10 August, to provide him with draft conditions which changed the recommendation from a deferred commencement consent to a standard approval?---Oh, I, I, I don’t remember that. No, I, I don’t.

But there’s no reason to think that he’s wrong in saying that?---Well, I can’t doubt, oh, if he said I asked him, he must have, maybe Charlie Demian called me and had some concerns and, and raised some issues and maybe came up with a solution, I, I don’t know. I don’t recall. I don’t recall.

20 You usually follow the officer’s recommendation.---Well, usually - - -

You’ve told us.---Yeah. No, no. Usually we support the, the IHAP recommendations, most of the times. Sometimes we support the IHAP recommendation. Sorry, sometimes we support the council officer’s recommendations instead.

Well, if the IHAP recommendation had been followed the CDC wouldn’t have considered the matter at all and you would have said, what’s this doing on our agenda. I, I, I don’t, I mean you’re talking on my behalf. I can’t  
30 remember this.

But you will recall Mr Stavis’s recommendation in his officers’ report was for a deferred commencement consent. What Mr Stavis is saying here is, you asked him for the terms required for a motion to change that from a deferred commencement consent to a standard approval. And so my question to you is, why did you do that on this occasion?---I don’t remember what, what the reason behind this is. I, I, I just, there must have been some solid or valid reason or some solution in regards to, to answering, I mean a deferred commencement condition reading this is a conditional  
40 approval, so if somebody says, look, I can come up with the conditions to meet it without having it deferred, then that could be a solution to it, which is the same thing indirectly instead of the waiting for the solutions to come later, it could come beforehand. I mean you have to ask Mr Stavis what was the reason behind it. I, I can’t remember.

Except that you’re the person who instigated this, according to Mr Stavis. ---Yeah, but I don’t remember this. You’ve got to find out what, what, what is the, the reasons behind it. There must be some valid reasons behind it.

Well, you're the person - - -?---I don't remember.

If we can't ask you, who can we ask, given that you're the person who was instigating this change - - -?---There must have - - -

- - - from a deferred commencement consent - - -?---There must have been - - -

10 - - - to a standard approval.---There must have been valid reasons for it, but I just can't recall it.

Well, we know that it was a DA by Mr Demian, that's one factor.---Correct, but there's a valid reason. A deferred commencement condition 3, that's what it says, but I can't remember what the condition 3 was, if it says condition 3 to do certain things and those things have already been addressed or can be addressed without being deferred, could be conditional, then that could be a solution to it without, without deferring it, have a DA with that condition in it.

20

So what is the problem that required a solution here? When you say that could be a solution to it, what is the problem to which that could be a solution?---Yeah, but it's the same thing. If you've got, look, I'm just talking from, from experience. If a deferred commencement with conditions, with conditions, and then you've got an approval with the same conditions that will apply instead of deferring it and then waiting for another, for, for IHAP to come back and meet another month for example, instead of waiting another month for IHAP to come back, we're talking about the same condition is moved and included in the DA, exactly the same condition with a, without a deferred commencement waiting for another month, you get it done immediately. It's the same thing.

30

So the advantage of a standard approval in the circumstances of this case as you understood it was that it would not delay the commencement of the consent as would the deferred commencement consent which Stavis had recommended in his officers' report.---Well, that could be - - -

Is that correct?---That could be, I'm just, this could be the common sense approach that was used in this particular time.

40

And the only reason that you could have sought a quicker commencement of the consent than Mr Stavis had sought in his report would have been because it would advantage Mr Demian.---No, he might have had an issue, he might have had something that he needed, instead of waiting another month, it's the same thing, you wait a month or you, you, you do it immediately. To me the same conditions have been applied here. There's no, there's no difference. The only difference is a month's saving.

And then if we could go, please, to page 81 of volume 21. This is an extract of the minutes of the meeting of the City Development Committee on 13 August, 2015 in respect of the agenda item comprising the development application for 570-580 Canterbury Road, Campsie. You seconded a motion moved by Councillor Azzi that the development application be approved, subject to conditions. Do you see that?---Yep.

10 Did you have discussions with Mr Azzi about taking this measure, that is to say, firstly, not having the matter deferred as the IHAP had sought and, secondly, not having a deferred commencement as the officers' recommendation had proposed? Did you have any discussion with Azzi about this?---No, I don't, I don't recall this but - - -

Well, you must have had some discussion, mustn't you?---Charlie Demian might have spoken to him. I, I don't recall. He might have, he might have spoken to both of us. I, I just don't remember but, I mean, from memory - - -

20 There must have been discussion because you're the person, not Azzi, whom Stavis said he was asked to provide the conditions for a standard approval to.---Yeah, but, look I'm - - -

So you must have asked Azzi to move it, mustn't you?---Can I, all I can say out of this is, I don't know who supported it, I don't remember who, who voted on it.

Do we need to – I withdraw that.---Yeah, because it makes a difference.

30 No, I withdraw that. Can you assist us as to why the matter wasn't deferred as the IHAP had recommended and as would then have been in compliance with council policy?---No, it's, the, we've done this before where sometimes people have a, a time, a, a time issue and, and they can't wait for another IHAP decision, which they meet once a month and, and there's some urgent matter that comes up, that happens every now and again and that could have been an urgent matter, he could have, I don't know what it is but there must have been some sort of an urgency in order to address the IHAP. He's not bypassing the IHAP conditions, he's only addressing it through the, through the council, council officers' recommendation in order to, to save these four weeks. That's, that's all I can saw from memory and I, 40 I've got to, I mean, just, that's the only thing that makes sense to, to me.

You see, you intervened, didn't you, in the progressing of this development application with a view to preferring the interest of Mr Demian over the public interest, didn't you?---No, it's nothing to do with the public. This is just a council process, got nothing to do with the public. It's a council process that you're following, that you're either doing it this way, deferred commencement, which is an approval with conditions or those conditions

have already been, been met in order to, to speed up the, the process.  
That's, that's the only thing I can, I can think of.

And you did so dishonestly, didn't you?---No. It's not dishonestly. We do this quite often. I mean, sometimes we help people. People had urgent matters and issues. Nothing to do with dishonesty.

10 Now, in October 2015, Statewide Planning lodged a DA on Mr Demian's behalf for the construction of two additional storeys on the approved six-storey development at 570-580 Canterbury Road. Do you recall the DA for two additional storeys on the approved development at 570-580 Canterbury Road?---I remember there was something to do with, between Stavis and, in regards to the setbacks and the laneways and that's the only thing I remember, is based on the two, the two had some serious issues.

20 Between Stavis and Demian?---Yeah, and Demian, they had some issues. I remember that, and in regards to the setbacks, that Stavis was pushing Demian to, to give and, in order to get a, a better planning outcome. That's the only thing I remember.

If we could play, please, the audio file in Exhibit 258. This is a telephone conversation initiated by you to Mr Azzi at 7.39am on 8 April, 2016.

**AUDIO RECORDING PLAYED**

**[3.14pm]**

30 MR BUCHANAN: Mr Hawatt, you recognised the voices in that recording and yourself and Mr Azzi?---Yep.

If I could take you to the first page of the transcript, please. You said, in the middle of the page, a bit over the middle of the page, that you had spoken to Spiro, he sent you a message, he was just concerned about Charlie and then you went on to say, "But he stressed out too much over what he's doing. He said, like, I can't, I don't want to be put in a spot, you know. I said," something unintelligible, "talk to Pierre and, you know, make sure that, back him up, you know." Can you see that?---Yep.

40 So that seems to be, doesn't it, arising from what you were explaining to us a moment ago, the dispute between Stavis and Demian as you understood it, where you and Mr Azzi decided to support Stavis?---Correct.

Now, when Azzi said, "Yeah, yeah, yesterday, I spoke with Spiro. I'm happy with the email he sent," that was an illustration, wasn't it, of an intervention in the work that Mr Stavis was doing?---I'm not sure which email he's talking, I don't know which email he's - - -

Well, you don't really need to know, do you? I mean, why is a councillor to be concerned with what a director has done by way of correspondence?  
---No, we just, look, I think Mr Stavis had, he called us complaining to myself because we were, we were representing Charlie at the time because he calls us and, and, and Mr Stavis could not do whatever he wanted and he made, he wanted to put his complaint and we said, whatever you, you believe is right, we'll back you up. It's simple as that.

10 Going to page 2 of the transcript. You said, in the second entry, "And I am not going to pressure him too much." Him being Mr Stavis, correct?  
---Probably, yeah. I'm not going to pressure him, no. I mean, I mean, where are we? Could, could we go back one because I - - -

Yes, certainly. Page 1. Mr Azzi said - - -?---Yeah, he's doing the right thing, yeah, yeah. And he's, that's Stavis, yeah.

20 Yes. And so this is on page 2. When you said, "I'm not going to pressure him too much," what you were there referring to - - -?---Like, I'm not going to put pressure on him from, to support Charlie Demian on, on this.

Yes, I understand, but what you're referring to is your normal mode of getting Stavis to do things.---No, that's - - -

That is to say, exerting pressure on him.---No, no.

30 But this is an instance where you're not going to do that or have to do that.  
---No, I just, no, that's, that's a general conversation, I'm not going to put pressure on him. I'm not going to put pressure on him. Just a general talk. I'm not going to put pressure on him, that's, it doesn't mean, it means like I'm not going to push him to do anything he doesn't want to do. That's - - -

It means, doesn't it, that if you and Azzi had not decided to support him that you would have put pressure on him?---No, that's, now you're turning the words around. No, it's not correct. The pressure is not the pressure that you're, you're assuming but it's a pressure based on you're not going to put additional support for, for Charlie in order for, to, to, to help him against what Mr Stavis want. You can reword it any way you like.

40 And then four entries from the bottom you said, "No problem. So he said, I said to him, no, no problems. Pierre should be okay. He says maybe talk to Jim, he doesn't", something unintelligible, "pressuring you know, he's, he's worried about Jim pressuring him as well." That again was a reference to the mode of interaction as you understood it where Mr Montague wanted to achieve something through Mr Stavis that he would exert pressure on Mr Stavis.---No, I don't - - -

Is that your understanding?---No, it's not my understanding.

Why not?---Look, Pierre, he might have made inquiries on behalf of, of Charlie and Jim might have made an inquiry on behalf of Charlie, I mean I don't know, but there is, and, and I think based on the reaction from Mr Stavis and he, he can't, he can't handle, especially if he thought Jim and myself and, and Pierre are supporting Charlie, it's going to affect him, like mentally and I think he just made the assumption, Mr Stavis made the assumption that there's going to be pressure played on him from Jim, myself and, and Pierre, which is incorrect. We backed him up, Jim backed him up, we all backed him up against Charlie.

10

You seem to understand in your relaying to Mr Azzi what Mr Stavis had said to you that there were occasions when Mr Stavis received pressure from Mr Montague to take a certain course or not take a certain course. ---No, I don't believe it. I think, I think Mr Montague and, probably just wanted to, probably received complaint and he just wants to find out what's going on, so when he makes an inquiry it's the same inquiry as we make to Mr Stavis and if Mr Stavis wants to read it the wrong way I think it's up to him, but I don't, I don't believe Mr Montague would have done anything else outside the norm.

20

I want to take you to the second-last entry on that page, "But I think Jim, if he knows that we're onside he's, he's, he's okay, all right."---This - - -

What you're there saying to Mr Azzi is that the relationship that you and Azzi had with Montague was such that he would be likely to cave in to Demian unless he knew he had the support of you and Azzi.---No. What I'm saying is I presume that, that Mr Demian would have been calling Jim, putting pressure on him, and that's what we're saying and Jim, he doesn't, he doesn't want pressure on him as well and that's why we're saying if Jim will feel more comfortable also we're all thinking the same way. It's simple as that to, in support of, against Charlie in support of, of, of what's correct in regards to what Stavis is doing.

30

It's not so much feeling more comfortable, it's being prepared to support Stavis against Demian if he thought that he had you and Azzi on his side. ---No, he, he would have felt, look, I, I, I believe that Demian would have put pressure on Jim and Jim probably feels, oh, you know, like he's being pressured by someone and, and I think Jim will feel much more comfortable knowing that there's other people in the same way of thinking with him.

40

Excuse me a moment. Can I change the subject now to a different property, 15-23 Homer Street? Earlwood, I think.---Yeah, I know that one, yeah.

Correct me if I'm wrong.---Earlwood, yeah.

Thank you. Can I ask you about your relationship with Assad Faker?---Oh, there's, look, the, I met him when he had his issue with his site in Campsie, some, he had some, something to do with the, the roof or the common area

of a roof of a building he completed in Campsie, in Ninth Avenue, and he called me in regards to trying to change that, the common area into an office or something. That's, from memory.

When was that, sir?---Oh, that was when he finished his site in Ninth Avenue, that was, oh, way before, before - - -

Was it before the 2012 election?---Could be, could be.

10 Or was it after Mr Azzi had started as a councillor? Just thinking of that as a dividing point.---I don't think Azzi was around at the time, I don't think so.

So it might have preceded - - -?---Mmm, I think so, yeah.

- - - the 2012 election?---This, it was a while back. It was a while back.

And what was the nature of your relationship with Mr Faker after that?  
---Nothing, there was no contact after that. There was a, a break. And then  
20 he called me, next time he called me when, I think when he bought the site in, in Earlwood, I think it's, I think it's this site, that one.

At Homer?---Yeah. I think so, yeah.

Homer Street?---(No Audible Reply)

And did he talk to you about what he wanted to do with the site?---No, well, he just want to, he, oh, he had, oh, just, again, I don't really recall the exact thing, but what he wanted to do was put up a, a, a development then, just, I,  
30 I, I can't remember what, how many units he wanted on that particular site. There was a, there was a carpet, carpet there, and open land. And I, I know that space, that area reasonably well, because I used to walk past there on a regular basis with George, when we exercise. And across the road there's a, a rock wall, very high rock wall, and houses above. And behind him there was a river, and there's a, a, a development that's already exist next door.

That already existed?---Yeah, that already existed next door. So basically there was, from memory, there's no impact on any local residents whatsoever. Even the houses across the road are higher, looking down on,  
40 on his site. And it's on a corner, it's on the road, main road corner. And it goes down to the river. So what I've always looked at is that site that's been developed, I didn't see any issues or problems having the same next door, exactly the same as next door.

Same as next door?---The same as next door.

So, the Commission has before it a rezoning application for 15-23 Homer Street by Mr Faker's company, lodged on 13 May, 2014, and a planning

submission in support of that application, dated the same day. This is in Exhibit 52, volume 9, basically from pages 1 through to 32. When did you first hear that Mr Faker wanted to be at liberty to build a building that would be higher than what the site zoning, and building limit in particular, allowed?---Oh, I can't remember whether he came, when the, when the – I saw him, he called me a few times, but nothing – look, from memory, just going from memory, the, the time that he had an application in council, when he came with his architect and planners, he, and when I asked the director at the time I think was - - -

10

Marcelo?---Marcelo, sorry, yeah. And, and I asked, and I recall this one, when he had the, they addressed council in regards to their proposal. I can't remember if it's a planning proposal or a DA, I, I don't remember. But I remember the address and I asked Marcelo, I said, "Look, what, what is next door? What's the height of next door?" And he said it was, oh, from memory, 17 metres, for example. And then I said, look, why don't we have the same, well, there's no, no issues with it, sloping down to the river and, but I think everybody at the time were comfortable with supporting that and that was it. And then I got a phone call further down the track that council, because – I have to say, if we, if we move something, like, for example on, on council and the council staff are not clear of what our intent was, they normally call us and say what is it you really wanted? You, are you after, you know, all 17 metres across the site or step down, you know, something like this and we normally explain our position and they say, okay, we'll, we'll fix it up. But in this particular, on this particular one, it never came back as just, disappeared, and then I get a call from Con Vasiliades saying that the former mayor called him and saying that there was an issue where that particular site had 17 metres across the, the whole, the whole area which was wrong and we tried to fix it up because that's wrong and then at that time when we, I moved the motion to fix it up. I mean, Dawson was there at the, at the, at the time,

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Gillian Dawson?---Gillian Dawson and she said, look, it's, it's with the Department of Planning, we can stop it now or wait for it to come back and adjust it. I said, "Well, what do you think?" She said, "Well, let's wait and adjust it." And that was it and then that's, that's, that's the, from memory when I know about that site, and there was, in between there was further contacts between Assad and he started calling and then when, when Mr Stavris came in and then he started making changes and, oh, it just kept going forever. It's been going for, like, three years.

So can I take you, please, to Exhibit 75. This is a schedule of call charge records between your phone and Mr Faker's phone as well as between Mr Faker and other people. On the first page, you can see, just glancing down, from 11 October, 2013, to 17 July, 2014, the vast bulk of the contacts are between you and Assad Faker.---Yep.

The rezoning application was lodged on 13 May, 2014. You can see there that, you can see 12 May, 2014, can you see that date?---Sorry, 12 May? Yep.

So there's a number, aren't there, of contacts between you and Mr Faker - - -?---Well, there's a lot of second here, 40 seconds, 16 seconds, 13 seconds. I mean, a lot of them down, 47 seconds, 38 seconds, 23 seconds.

10 Yes, so what were you and he talking about before the rezoning application was lodged on 13 May, 2014?---He must have been asking me about the, my position probably in, in regards to his site and I've had my own, my own position of thought. As I said, I, I, know that site extremely well. I walk past there nearly on a - - -

No, no, no. You've told us that.---Yeah, correct.

20 I'm after what happened between you and him but before the rezoning application was lodged.---Well, he must have been just calling me. I think he bought a, he might have bought - - -

We can see that he was calling you. What were you talking about with him?---He, he had a, I think he bought another site in, on Canterbury Road and he was probably talking to me about that as well. So, I, I, just, like, any, any calls but a lot of the, the discussions just look like very, very quick discussions but he's, he came to my office a number of times as well, to, to talk. There's just discussing regarding his site in Earlwood and I think a site that he, he might have bought in, on Canterbury Road.

30 And what was the site on Canterbury Road?---Oh, there was a, it was down, down where Robbo is, that, the, what's its name - - -

That Mr - - -?---Maroun's, yeah, Maroun's site. That was a, it was all part of that B6, B5, I think, zone, he bought right, right at the end.

So you tell us though that at least some of those calls would have been Mr Faker trying to get your support for the rezoning application?---Maybe he's just trying to find out what's going on and just discuss it.

40 Well, there's nothing to go on until he lodges the application.---Correct, and he's just, he's just inquiring, he's been inquiring about it.

Inquiring about - - -?---About the two sites.

- - - whether you would be prepared to support his application. Would that be fair to say?---Which one, in, in Earlwood?

Yes.---Well, in Earlwood I have no problems with it.

Now, the matter came before council on 13 November, 2014, and you can see in these call charge records from 16 May through to, excuse me, through to October 2014 there are numerous contacts between you and Mr Faker. ---They're all, a lot of them are in seconds as well.

And what is it that you were talking about during the contacts that you had with Mr Faker in the period 16 May, 2014 to 17 October, 2014?---Look, I don't recall. There's hardly, hardly any discussions here, these are in second, one minute.

10

No, no, no. I'm not asking you that. I'm asking we can see that there's contact between you and Mr Faker, what is it that you were talking about with him in that period?---Look, I wouldn't have a clue. All I'm saying, if he called me it would be regarding his site and I call him back regarding his, his site, yeah.

20

And what was said about his site between the two of you?---He probably, I probably gave him my, my, my position regarding what I believe should be done there and that was it and he probably calls me for assurance or to listen to, to what I – I mean I don't know, just, there's too, there is nothing except just general discussions in regards to his site or his other site, I don't know.

You see, once you had indicated to him that you supported it, what else was there for the two of you to talk about?---He had a lot of issues, back and forward issues, I don't know. He kept on, he, he was going to council, you should trace his, his other calls to council and find out, and, and his planners, there was a lot of issues between, between him and the planners, lots of issues.

30

We haven't got to those yet. What I'm talking about is, what happened in the contacts that you had with Mr Faker between the time he lodged his application and the time that it was considered by council?---I don't, I can't recall even, I recall him coming to see me in my office a number of times, I mean there's seconds of calls.

40

Yes, what happened on those occasions between the time that he lodged the rezoning application and the time it was considered by council?---It's only we've spoken about his site, I don't recall, and what could happen, except he can talk to, talk to me about his site.

Did you have any contact with Mr Occhiuzzi about the rezoning application?---I might have. I don't recall. I might have made some inquiries.

Now, if I can take you, please, to Exhibit 52, volume 9, page 48. There was, as you can imagine, an officers' report on the rezoning application to the City Development Committee for its meeting of 13 November, 2014, and at the bottom of page 48 you can see the beginning of the recommendation.

And the recommendation you can see there was that a planning proposal be prepared to amend the maximum building height to be set at 14 metres, in particular, and that the current maximum height of 10 metres be retained for the part of the land that is not along Homer Street itself, that is to say for the rest of the land. Do you see that?---Yeah.

10 And if I could just take you as well to this material on page 47, if we could go back, thank you. This is a preceding page, part of the material that is provided to council in the officers' report, as at the top of the page indicated that there was merit in allowing a height increase, so that the site related better to the completed development adjoining to the south, but the proposed 18-metre building form with an approximate FSR of 2:1 on the site was considered excessive and out of scale with the predominant built form in the area, and that the form that was proposed should be moderated – this is the last sentence of that first paragraph on that page – “This should be moderated by an objective of stepping down towards the river. For that part of any proposed development along Homer Street frontage, the maximum height should be limited to 14 metres. Thereafter as you go towards the river, it should be a maximum height of 10 metres retained.” And finally, if I can just take you to the sentence below the diagram, “It is important to note that a 14-metre height limit not be applied to the entire site, but only part of the site where it adjoins the building to the south.” You see all of that.---(No Audible Reply)

30 Now, you didn't follow the officers' report in this instance?---No, they addressed – that night, that's when he, they addressed council, him and his planner, or architect, and there was a, a discussion in regards to what they wanted, I can't remember what they wanted, and I asked the question, which was nothing, nothing that I moved, any amendment. I asked the question at that, that night, at the meeting, what was the height next door? And I was, it was given to me by Marcelo, if I recall, as 17 metres and stepping down. And I said to Marcelo, “What's wrong with having a similar, same height stepping down as the one next door?” And that was the, the discussion, and oh, we moved to make it like next door step down. No details, just like next door stepping down as similar to that. That was the, that was the basis of, of the changes at the time.

40 Mr Hawatt, you pressed for the amendment to the maximum building height to be 17 metres because that's what the applicant wanted - - -?---No.

- - - didn't you?---He didn't even know I was going to move this. He didn't even know. So don't give me this.

We know what Mr - - -?---He did not know.

We know what - - -?---That's rubbish.

- - - the officers thought of the 17 metre argument, because it's set out on page 45. I just suggest to you that it's unlikely that your account of Mr Occhiuzzi saying that the height of the building next door was 17 metres would be right, given that it was obviously a lot more subtle and complex than that, having regard to what is in the report on page 45 of volume 9. So - - -?---We, we didn't go into details. All I said, I didn't remove, I didn't change anything in regards to the recommendation. All I said was, make it like next door. Like next door.

10 You changed the, you threw the recommendation out completely - - -?---No, the recommendation was 17 - - -

- - - a completely different resolution.--- - - - like next door. I didn't have the full details of what next door is, but they had the details.

Who is "they"?---It was like next door, the - - -

Who is "they"?---The council staff. And, and, and I have to say, Mr Assad did not know I was moving this, because it was all happened at that  
20 particular time at night, after he addressed council with his, with his planner.

You see, can I show you, please, volume 9, page 50, the resolution appears there in the extract from the minutes of the meeting of the CDC on 13 November, 2014, that a planning proposal be prepared to amend the building height to be set at the same height as the building next door, which is 17 metres, which is completely different from what the officers had in their recommendation on, which is on page 48, and I took you to earlier. ---Well, well, the rest, that's what we, we spoke about, and the rest was the,  
30 the same.

So the question is, where did you get that wording from?---17 metres?

No. Where did you get the wording of that motion from?---Might have moved it on the night, I, I just can't recall.

Well, it's obvious you moved it on the night, we can see that. Where did you get the wording from?---From Marcelo. He's the one who mentioned 17 metres.

40 See, I want to suggest to you that your evidence is incorrect.---It's not incorrect.

We can see - - -?---Go to the recording.

We can see what the officers' report recommended and it's quite different from what you moved, and the question is, how come you moved something so different from what the council officers recommended?---It's not different. The only difference was the question I asked Marcelo. What is

next door? 17. Okay, let's make it the same stepdown like next door. That's what, that was the, there was no conditions or anything, just it was a discussion, like next door, and that was moved to make it like next door. That's all it was.

10 Given the extent of the communication that had occurred between you and Mr Faker between the lodging of the submission for the planning proposal and the time when this meeting occurred in November 2014, given what we can see was the officers' recommendation, given that we can see that your motion in the first part of it was radically different from what the officers recommended, the only conclusion that can be drawn is that you obtained this wording from Mr Faker.---100 per cent incorrect. He didn't even know.

Excuse me a moment. Now, you told us earlier this afternoon that what you moved was incorrect.---What I moved was 17 metres like Marcelo told me was stepping down to the, to the - - -

20 No, no, no. You came to the view that what you moved was incorrect. ---Correct, because I made it 17 metres across the whole site, which was not the case.

Well, except that this application was for the whole site and your motion was, amend the maximum building height to be set at the same height as the building next door, which was 17 metres. End of story.---Yeah, but not the whole site. I, verbally I told them it's like next door, stepping down. I never said 17 metres the whole site. You should go back to the recording and listen to it. It's there. It's on record.

30 So did you move that the minutes of this meeting not be adopted at least at the next meeting of the CDC?---I never, I never noticed this until I got a phone call. I don't remember the minutes of this. I don't recall until Con told me, and by rights the staff, if they weren't sure, they should have come back to me like they normally would, and that's a policy of council, they should have come back and questioned what I, what my intent was at that night, which they did not, so as far as I was concerned they did the right thing but that wasn't the case, they did not do the right thing.

40 Now, can I take you, please, to – I'm sorry. You said a moment ago that Con contacted you, that was the first - - -?---I heard of it, yes.

- - - you're aware, first awareness you had that there was something untoward about your motion.---Yeah, something, yeah, because someone highlighted it and that was it.

What did Con say?---Oh, that I, that there was a, that I'm going to be in trouble because of the man told him because I moved 17 metres across the whole site, and I thought what, this is not the, that's not what we moved, and then I checked it out and realised that was the, what the council officers

made, made it to look like, because that was, I think it went to the Department of Planning and I think they also questioned it.

Did you have, did Con say his father had said anything about it?---No, no, he said the mayor called him and told him.

THE COMMISSIONER: I thought you said the former mayor?---The former mayor, sorry, the former mayor.

10 Sorry, is that Mr Robson?---Yeah, yeah, yeah, yeah.

Right.

MR BUCHANAN: I see, I'm sorry, I might have misunderstood.---I'm sorry, I should have said, yeah, and I - - -

You mean the mayor before Mr Robson?---No, no, I'm talking about Mr Robson.

20 Mr Robson. Okay. Can I ask, so Con told you that the former mayor raised with him an issue?---Correct.

You had no conversation with George Vasil about this?---No, no. That's what I found out from, and George, Con might have told George and George might have spoken to me, yeah.

So George might have spoken to you about it?---He might have spoken to me, yeah.

30 And what might George have said to you about it?---Look, there's a problem with that, what was moved on that site.

Yes? And any other communication between you and George Vasil about this?---Oh, look, I don't, just to fix it up, how to fix it up.

How to fix it up?---How to fix it up. We need to fix it, yeah.

George told you how to fix it?---No, we had to, we discussed it with George.

40

Who's we?---Myself.

And Con?---Maybe Con.

Discussed it with George Vasil?---To find out there's a problem, 'cause we moved it. Con - - -

So the three of you sat around a table at George's office?---Trying to, trying to fix it. In the office, trying to fix up this problem.

And, what, did someone type a motion?---We did, yeah, we typed a motion to, to try and fix it up.

And was that motion dictated by George?---No, no, was the three of us sitting down talking about it.

10 THE COMMISSIONER: Sorry, who were the three again? You, Con - - - ?---Myself, George and Con.

MR BUCHANAN: If we could have a look, please, at volume 9 in Exhibit 52, page 52. This document was found in your house when the search warrant was executed there. Is this the document that was created?---Yeah, that's the one, yes.

20 And it was created on one of the computers at George's office, is that fair to say?---It could be the one, yes, yes.

Do you think that George might have helped with the terms of the motion? ---Look, he might have assisted us on this. He might have.

So can I just be clear about this? You lodged this motion with Mr Montague's office, did you, for it to be included in the business papers for the next meeting?---Correct. Yes. Yes.

And with a view to moving it and hoping it would be passed?---Yes.

30 And that was because you saw, did you, that there was a problem if the motion, I'm sorry, if the resolution of the meeting of the CDC on 13 November, 2014 was implemented because it would cause the planning controls for the site to change that would allow a ridiculously big building to be built next to the Cook River.---Correct.

Is that fair to say?---Correct.

40 Now can I ask, you did tell us a moment ago what occurred when the matter came, excuse me, before the committee. I think it was on 26 February, 2015. If we could have a look, please, at Exhibit 52, volume 9, page 94. This is the business papers for that council meeting, I apologise.---Yeah. Yeah.

Of 26 February, 2015. The motion wasn't passed. You I think withdrew it. If we go to page 95, a bit over halfway down, the motion is reproduced there as agenda item 15/15, and it says, "With the leave of council, the above motion is withdrawn." You see that?---Yeah.

You were persuaded to withdraw it?---Well, Gill Dawson said, look, it's already with the Gateway. Let them come back and see what other issues they have and we'll put it all together. She said if we, if we put it in now and if we send it to Gateway, then they may not finish the, the work they're doing on it and they'll come back. I said, look, she said, look, it's better to, to withdraw it and wait until it comes back, then fix it all up. That's, that's what, and there should be a recording of that as well at that meeting.

Well, there isn't.---Well, there is.

10

I'm sorry?---The minutes of the - - -

Oh, I'm sorry, I do apologise, Mr Hawatt. I'm saying that it's not here on page 9 of the minutes of the meeting that council had that day.---Sorry, I said there was no recording of it, sorry.

Now, can I just ask, though, you were not unused to changing a planning proposal before it had been implemented as a change to the LEP, were you?---What do you mean?

20

What I mean is, thinking, for example, that there'd been a planning proposal that had been emerged from the Residential Development Strategy that was considered by council in its meeting in October, 2013, and then at council's meeting on 2 October, 2014, you had moved a whole series of amendments to this planning proposal even though it had received Gateway, gone to public exhibition, come back from public exhibition.---Because I, I was, I'm the deputy chair of the planning committee, city, and I, I moved everything. It's always like a, Mark was the chair, I moved it, it was voted upon and that was it. That was the general thing that I did.

30

But all I'm saying is, you had experience of achieving an amendment to a planning proposal before it had been finalised, indeed, in quite a significant way - - -?---When you say experienced - - -

- - - in relation to residential - - -?---Experience as moving motions, yes, a hundred per cent, and, and that was the general thing that I did, that was normal in council. Doesn't mean, doesn't mean I had experience.

40 What I am just trying to find out is why you didn't do that on this occasion to ensure that you didn't end up with a planning proposal which had an intent with which you disagreed and would achieve a ridiculously big development on the site.---Because we, we weren't going to let it go. I mean, it was agreed upon by the planners that they're going to think when it comes back, they'll fix it up and it never went through anyway because of that.

When you say that, you're talking about post-amalgamation?---No. When, even when, when it came back, even Stavis was making a lot of changes towards it and I told him that, that when you came back afterwards.

I'd better let you explain. When you say, when it came back, what are you referring to?---The Homer Street site.

Yes, coming back?---Come back to council.

10 What coming back?---The, the recommendation coming back from the Gateway.

So you can recall that there was a Gateway Determination that council received from the department which required that the planning proposal be amended to include further justification to support a maximum building height of 17 metres on the site?---No. I remember there was, that was never, that was never been resolved because Stavis then came into the, into the picture and then he started making further changes and I, and that was explained to him that there was an, an issue with the, with the height and, and then he started going back and forward and making his own changes and, and when he had, he thought it was right and, and it just kept going and on and on and on and then there was the, the amalgamation of, of council. So, it just, just didn't, didn't happen.

So you became aware of this Gateway Determination from the department on 19 March, 2015?---Well, I was aware that the, it came back and, and there was calls, there were some issues between Stavis, again, and, and Assad in regards to further setbacks and changing of the designs and, and, and then they just kept, I had a number of meetings with Stavis and, and Assad to try and resolve the, the issues on top of the, the height issue and it just kept going. It just went on and on and, and it just didn't happen.

Can I ask whether we can please have a look at Exhibit 52, volume 9, page 115. Can you see here that Mr Stavis on 8 May, 2015 emailed you a series of documents - - -?---Yeah.

- - - that included department letter Homer Street?---Correct.

40 He said in it, "Here you go." I'm sorry, I'll start that question again. He said in his email, "Here you go." That makes it sound as if Stavis was responding to a question from you as to whether you could have a look at - - -?---Well, I think they must have been receiving inquiries on behalf of all these sites, and that's why, that's why he's got some feedback and says, "Here you go."

So you would have understood that the 17-metre height component of the planning proposal was going to cause Mr Faker delays?---No, no. Nothing to do with delays here.

Well, you would have read the departmental Gateway Determination requiring, before the matter could go to public exhibition, further justification to support a maximum building height of 17 metres on the site. ---I don't think, I think Mr Assad had any issues with, with, with the recommendation that we made in regards to the stepping down and, like, next door. I don't think he had any issues at all with it.

Can I just ask you to focus on my question?---Yeah.

10

You thought that there was a problem with the planning proposal so far as it sought an increase of the building height planning control from 10 metres to 17 metres across the site?---That's a big problem, yes. That's - - -

You thought that was incorrect, there was a problem with it.---Correct.

You can see here that the department thought the same thing.---Correct.

20 And so when it sought – before it could go any further – further justification, Mr Stavis would have told you, wouldn't he, oh, well, that means we're going to have to get a consultant to do a report.---No, Mr Stavis started changing the design of the – because I think from, from memory I think Mr Assad must have put in his plan or his DAs, like, what he wanted to do with it, and I think then, because I remember me meeting him and Assad on a number of times where he started changing the designs and, and, and asking him to do this and do that and change the balcony. I remember we're talking about balconies not to face the other building and there was issues like this. So, and that, that was, kept going on and on and on between the two parties, and then that's when I got a number of  
30 meetings, discussions with them. But - - -

You're not saying a DA was lodged, are you?---No, there was, there was, definitely there was something that Mr Assad given council. I remember very well - - -

Oh, yes. I'm not suggesting a document wasn't given to council by Mr Assad - - -?---Because I remember well the, the balconies.

40 - - - but you're not saying that a DA was lodged, are you?---I don't remember but there was something about the balconies, where Stavis kept on changing the, the way the, the angle of the balconies. I remember that.

And you can see from your own description that all of this flowed from the department's response to the resolution, namely that it sought – before it went any further – further justification to support a maximum building height of 17 metres on the site. You could see that, couldn't you?---Yeah, I saw, yeah, but that's - - -

All of these things that you're talking about flowed from that. You can see that, can't you?---I, I can't, I don't understand what you're saying. Flowed from what?

10 That this was causing delays to any planning proposal going ahead in respect of changing the controls for that site.---I didn't take that into consideration. The only thing I had in my mind was the original thing that's sent to the Department of Planning was incorrect and when it came back they had the same I think, the same, the same position. So as far as that was concerned, the delay was coming from, from Mr Stavis, who kept on changing and asking for further reports and consultants and, and, and, and balcony angles from memory, and that's, that was the delay. It's not - - -

20 Mr Hawatt, didn't you think that if the problem is the requirement to have a maximum building height of 17 metres and we all think that's incorrect, then we can cut this delay off, this problem – further justification or reports being required – off at the knees by amending the planning proposal to make it clear that we don't mean 17 metres across the site.---We don't need it. I never said we supported that. But there was other issues. There was other issues that Mr Stavis had with the, whatever the design, whatever the submissions that was given from Mr Stavis, from his planners and his architect to Mr Stavis. I remember there was issues also with that.

Oh, yes. All of them flowed from the department's requirement for further justification to support a maximum building height of 17 metres on the site. Every single one of them.---I, I don't recall that.

30 For months and months.---All I recall is based on, on, on the, the angles of, of the balconies and, and consultants, I just, that's, that's all from memory what I've got.

And see, having been appraised of the department's approach and did you talk to Stavis about it?---About the, the 17 metres and, yeah, I, he had the motion, I, I gave him the motion, the original.

Yes. And what did Mr Stavis say when you gave him the motion?---Leave it to him, he started looking into it.

40 You didn't think to yourself – I withdraw that. Did Mr Faker complain to you about the delays that all of this was causing to his project?---No, no. He, all he was talking about is - - -

He was happy about the delays, was he?---No, he was, he didn't care. He's not like Mr Demian. He didn't care. All he just wanted to, he kept going back and forward and whatever the council ask him to do, he was doing. There's, there's a big difference.

And he had to retain consultants himself, didn't he?---He was using consultants, yes, yes.

And all of this went on for months and months.---Correct.

And all of that could have been avoided if, as you tell us, you had acted on your opinion that the council resolution requiring a planning proposal to increase the building height to 17 metres on the site was amended to make it clear that it didn't mean 17 metres across the site?---I, it never completed.  
10 As I said, there was, while this was happening, there was also submissions in regards to consultants, in regards to designs. I mean, I just got involved in, in, in arranging meetings and passing information. Council had all that information. It's up to the council staff to sort it out towards the end. It wasn't my, it wasn't, wasn't myself. My position was known and this is what I wanted as far as my motion was concerned, to fix it up, and that was the intend. Now, what happened after that, we, we came in, in, the laps of the council staff, not myself.

Can I ask why you sought a copy of the departmental correspondence on that planning proposal?---I, I don't do, might have asked what, what was the  
20 issues, I don't know. Assad might have asked me for what, what was the issues. I don't, I don't recall.

It's likely to be because Assad was talking to you about it, isn't it?---Of course he might have, of course he would have spoken to me.

And expressing concern to you about it?---Look, I don't recall the exact decision. All I can remember is there was a number of meeting where there were some changes, consultant reports and there's nothing, as far as I was  
30 concerned, it never, it never came to an end, it just kept going, and even to the, we were sacked as councillors and it kept, kept going after that. So I, there's nothing that I can do in that regard.

Was the approach that Mr Assad seemed to be taking – I do apologise, I hope I haven't called him Mr Assad before now. Mr Faker.---Oh, sorry, yeah. I think I might have mentioned Mr Assad.

That's okay. Was the approach that Mr Faker was taking with you, as you understood it, that he wanted to take advantage of this mistake that had been  
40 made in council passing that resolution in November 2014 and get the planning controls loosened to a greater degree than had ever been intended, so that he could build a bigger building and increase his lot yield?---From memory, again, as far as I was concerned, he was dealing with council. His consultants, his planners, were dealing with council in regards to their concerns. I coordinated a number of meetings. After that, I didn't know what happened.

We can see from the call charge records in Exhibit 75, page 2, please. Page 1 in the first instance, that there was considerable contact between you and Mr Faker from 13 July, 2015 through going over to page 3 of the document, into August 2015, September, October. What was it that you and Mr Faker were having contact with each other about at this time if it was concerns about what was happening with this particular planning proposal?---Well, all these calls, just again looking at it, it's all in seconds, most of them are in seconds. I mean I don't know what you can discuss in seconds. There's some of them with one minute, other seconds, most of them seconds, so I  
10 don't know what I could talk to him for seconds.

The likelihood is that you and he were talking about the delays being caused with this planning proposal or the reports that needed to be prepared in respect of it, isn't it?---How could we talk, talk in seconds about delays? There's like the biggest here I can see is one minute. I'm just looking at one minute and seconds. I don't know what I could talk to him about in that short period of time, except are you there, I leave a message.

Can I take you just back to page 108, please. Sorry, page 107, if I could.  
20 This is a copy of the Gateway Determination, and you can see there the paragraph numbered 1, the third dot point is that, "Further justification to support the maximum building height of 17 metres," condition. Do you see that?---Which, which one is it?

I'm sorry, paragraph numbered 1.---Yeah, yeah.

And there's three dot points.---Oh, yeah, yeah, yeah.

The third dot point commences, "Further justification - - -"---Further  
30 justification, yeah, sorry.

- - - "to support a maximum building height of 17 metres on the site."  
---That's wrong, yeah.

And when you say that's wrong, you mean?---Well, there shouldn't be, there should not be justification because we didn't want it.

And so what did you do to ensure that that wouldn't be required?---Well, it became between council and, and the planner of, of Assad, his planner, his  
40 architect and council were resolving this issue, but - - -

Why in that case were you talking with Mr Assad, Mr Faker, Mr Faker?  
---Mr Faker was calling me in regards to the - look, from memory it's regarding to the design of, of the, of the balconies and the issues that Stavis had. That's, that's what I remember. And then he, and then there was communication between his consultant and, and so on. Only, the only thing I got involved in is if there was a coordinated meeting between him in

regard to the design and I sat there listening to, without even, without really putting much debate in this whole thing.

And when was that?---Oh, there was a couple of meetings where I met in council and with Stavis and, and Mr Assad.

Mr Faker?---Mr Faker.

10 And his planner or architect?---Yeah, could be his planner and architect, and, and as far as, that was, I never got heavily involved after that.

Why were you sitting in on those meetings?---Because I coordinated it as a councillor.

Why did you coordinate it?---Because I was asked, request to coordinate.

Who asked you to do that?---Assad.

20 And why as you understood it did Mr Faker ask you to coordinate those meetings?---Because he had I think something, I think there were some issues that Mr Stavis had.

Why couldn't Mr - - -?---He had a lot of issues, he had, he had in regard to whatever it was.

30 What as you understood it though was the reason why you were asked to coordinate them rather than Mr Faker speaking to Mr Stavis directly?  
---I think he's done that on, as well on many occasions, I didn't sort of go to every meeting they had.

We can see that he did on a couple of occasions, but why, as you understand it, did Mr Faker want you to coordinate these meetings with Mr Stavis?  
---When people call me for an inquiry they ask me to do that, that's my job, that's normal.

Do you think it's with a, do you think it was with a view to lending your authority - - -?---No.

40 - - - with Mr Stavis, in the presence of Mr Stavis, to the, to what it was that the developer wanted?---That's why it's taken him years after that. What, what authority did I do if I couldn't even achieve adjust the balconies or anything like that? He, he kept going with it. If I had authority, would have been finished in, in months, not in years.

Going then to page 108 in volume 9. This is the second page of the Gateway Determination. Clause 5, if I can just draw it to your attention while we have it here, is "The time frame for completing the Local Environmental Plan is to be 12 months from the week following the date of

the Gateway Determination.” You can see that date is 19 March, 2015. You see that?---Yeah.

Excuse me a moment. Now, the Commission knows that the council retained a consultant called Olsson, Russell Olsson, to prepare the further justification report sought by the department, and that on the 16<sup>th</sup> of July, 2015, Olsson Associates sent to council a final version of their report. They called it an urban design site envelope. That’s volume 9, page 178. And in summary, the consultant wasn’t able to support the 17-metre height limit on the site, and recommended an alternative height of 14 metres. Do you recall that that was what occurred when the first report was obtained from Mr Olsson?---I don’t, I don’t recall. The only thing I recall was the meeting in regards to the, the issues, the design issues, and that’s something I recall after, after that incident when we moved the motion.

Well, in the call charge records, page 3, on the 21<sup>st</sup> and 22<sup>nd</sup> of July, 2015, there are contacts between you and Mr Faker. That’s within a few days of the Olsson report having been received. Did you and Mr Faker discuss this report that council had received in relation to his planning proposal seeking a 17-metre building height limit on the site?---I might have but I don’t recall. I might have said, look, it’s, you need to fix the, get your consultants to work with the council staff. And I don’t, I don’t recall but it’s not, I mean, if I did talk to him, well, I did talk to him. I just, I just can’t recall.

Can I take you, please, to a text message on 9 August, 2015, volume 9, page 180. Message number 1 in this list is a text by you to Mr Faker on 9 August, 2015 at 3.53pm. “Hi, Assad. Can you submit a DA for Homer Street with your planning proposal? It’s best to meet with Spiro with a preliminary plan of your proposal than,” although you might have intended the word “then”, “submit a final DA that has support of council.” Signed, “Michael”. Do you see that?---Sounds, yeah, pre-DA by the sound of it, yeah.

Well, where did you get the idea from that you put to Mr Faker in that text message?---Well, must be from Mr Stavis.

And what was the conversation in which Mr Stavis gave you that advice? ---He might have said he needs to put a DA in, pre-DA, so we can look what he’s got. I don’t know. That’s from, I’m just reading this. I don’t recall that anyway.

So you would have talked – this is two weeks after the report from Olsson Associates had been received – you would have talked to Mr Stavis about what the report said.---I had, I had a lot of inquiries about, from - - -

I’m sorry, you - - -?---I had inquiries from Assad in regards to the progress, yes.

That Faker wasn't happy?---Look, Faker, he's never, he's never, he didn't care. I tell you that now. From my memory, he wasn't pushy, he wasn't aggressive. He just flowed, flowed along in an easy, easy way. That's why it took so long with him.

Would that have been unusual, in your experience, for a developer who is carrying - - -?---Yes, there's a - - -

10 - - - interest - - -?---He was a - - -

- - - charges and holding costs - - -?---He didn't care.

- - - for a site that was not being developed?---He wasn't pushy, at all. He was very gentleman, he was a gentleman.

Was he nevertheless asking you to intervene?---No, he just, look, he just doing enquiries, just asking for enquiries.

20 Yes, but we know what, we've heard you give us a definition of "enquiries" and "queries".---Just progress, just the progress.

It's asking you to obtain an outcome.---No, he's just asking and progress and then the feedback I got from, from Mr Stavis is to put a, submit a DA and this is where I said there was issues even with that, where there was plans, and the balconies and – so and then that's, that's just an enquiry. Oh, I've just, I don't see any issues with that.

30 You met with Mr Faker as well about this, is that right?---Mr, Mr Faker came to my office a number of times, yes.

Did you meet him anywhere else?---No, and he used to come to Lakemba and he dropped in, in my office.

And - - -?---I might have met him at, at the council, I just can't, honest, I - - -

40 Excuse me a moment. Can I take you to page 281 in volume 5, please? And can I ask you to have a look at message number 292, in this list of messages extracted from your mobile phone? It's on 17 September, 2015, and is at 9.55am. It's to Mr – I'm sorry, my mistake. To, yes, to, it's at 12, start again. It's at 12.28pm. It's to Mr Stavis, and you said, "Hi Spiro, what is happening re 15-23 Homer Street, Earlwood? What is the current position, as this is dragging on for too long. I hope the games are not being played again by certain people." Signed "Michael". It doesn't sound, Mr Hawatt, as Mr Faker was happy to, happy with the delays that were occurring in his planning proposal being approved.---He, he didn't show any, he just made enquiries. He wasn't pushy. When he came and made an

enquiry, I said it on his behalf, and, and that was it. He wasn't angry. He wasn't upset. He wasn't anything like that.

But Mr Faker was telling you, this is dragging on for too long - - -?---No, he  
- - -

- - - is that fair to say?---He just talking, general discussion, it's been dragging on for too long. That's what I, yes, that's my, what, what I said.

10 What did you mean by, "I hope the games are not being played again by certain people"?---Because there was Councillor Eisler, who was, she complained from day one, she doesn't want to see any development on that site, because she has coffee across the road, and she was, from, from what I know, she was making representation against that development.

And that's all you meant?---Yeah.

You were pressuring Stavis to get this planning proposal completed, weren't you?---No, I just, look, I just followed up on enquiries, and when I made the  
20 enquiries, I didn't pressure him to do anything, because even, even Assad wasn't pressuring me, so there was just a, a, a respectful enquiries that went through in a, in a normal process, and that was it.

Can I take you to volume 5 again, please, page 284, text number 339. This is from Mr Stavis to you on 30 September, 2015, at 6.20pm. "Hi Mike. Don't forget 3.30pm at council for meeting with Assad Faker." Then in the next text he said, "It's to discuss Homer Street." And then in the next text, item 341, at 7.10pm, he said, "I really need you to attend, please, Mike. Is that okay?" And then you responded at 9.08pm, item 343, "Thanks, I'll be  
30 there at 3.30pm. You see that?---Yep.

What was your understanding as to why Mr Stavis said to you, "I really need you to attend, please, Mike. Is that okay"?---I think there was issues, as, as I said before in regard to the design and that was going back and forward and I think Mr Stavis had his own ideas of what should be done on that site and I think he wanted more changes to be made from this outcome, from Mr Faker and, and his architect. That's from memory what I, what I think happened.

40 Well, the evidence before the Commission is that at meetings with his staff in around late August, early September, Mr Stavis was saying that he was more interested in trying to tie everything back to that part of the building next door that was 17 metres and therefore that building height should be applied across the site.---Who said that?

Mr Stavis.---That's what he wanted? I don't recall that.

That's the evidence before the Commission.---I don't recall that.

And that on another occasion, he said to staff, "I am thinking of a little more height near the existing building that what Mr Olsson had been prepared to contemplate."---I don't, I don't, I don't recall that.

Well, the question is, why was it that Mr Stavis was pressing that the dimensions of the building envelope that was contemplated by the incorrect resolution be implemented if you were talking to him and you thought that they were incorrect?---There is no way in the world I would have asked him to follow that except the stepping it in. There may have been some discussions between the consultants of, of, of Mr Faker and, and the council and, and, and Mr Stavis. I don't, I don't, I didn't get too involved in that area but I just made, as I said, the, the enquiries, but what happened between the consultants' reports and what other discussions they had, I don't recall. The only thing I do recall is as I said, the design, there were some issues with the design and the, and changing the angle of the, of the balconies.

I'll just take you to one more piece of evidence if I can, please. Volume 9, page 180. At that meeting that was scheduled, what happened?---I don't remember, that's - - -

Did you see a copy of Mr Olsson's report in which he said he wouldn't agree to the height concerned?---I don't, I don't, don't remember.

Do you recall seeing what council had obtained by way of further justification, namely something that actually recommended against the additional height?---Look, I, honest, I don't recall that meeting and what was discussed, I can't remember.

You'd accept, wouldn't you, that if that was what council had received, that that would be causing a delay to the planning proposal being progressed?---Maybe, maybe, I don't, I don't remember.

And you don't think that Stavis told you that, given that you were complaining to him about the delays and that it had been going on for too long?---He might have said something, some issues within the consultants and the reports and, and he probably wanted to relay the, why there's delays going on, there's a problem.

You would have understood, wouldn't you, that it was a considerable problem for the planning proposal to be progressed if council could not furnish the further justification that the department wanted?---I didn't get into that area involved, all I said was - - -

But Mr Stavis must have told you that, mustn't he?---It's between the consultants. I, look, he might have said, as I remember, the issue that was having was the design, from memory, and there was some consultants going on between Mr Stavis and, and council staff, that's, that's all I remember.

If you were attending these meetings that you've told us about it's inconceivable that you weren't aware that council at that stage wasn't able to get a report that satisfied the Gateway condition, indeed all they had was a report that recommended against the 17 metres.---If he, if he would have discussed this with me, if he discussed it, there's no way in the world I would have supported the 17 metres across, personally.

10 Thank you.---I would not support it.

Thank you. That's all, if it would be a convenient moment.

THE COMMISSIONER: Yes.

MR BUCHANAN: I mean I could keep going.

THE COMMISSIONER: You'll revolt in there.

20 MR BUCHANAN: I'm about to move on to another subtopic, but a matter for the Commission.

THE COMMISSIONER: I won't bother taking a straw poll, I think we'll adjourn for the weekend and resume 9.30 Monday morning.

**THE WITNESS STOOD DOWN [4.31pm]**

30 **AT 4.31PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.31pm]**